

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

LBS INNOVATIONS LLC,

*Plaintiff,*

V.

BP AMERICA INC.;  
CONOCOPHILLIPS  
DBA CONOCOPHILLIPS INC.;  
CHOICE HOTELS INTERNATIONAL, INC.;  
COSTCO WHOLESALE CORPORATION;  
HYATT CORPORATION;  
KEYCORP; KEYCORP FINANCE INC.;  
MARRIOTT INTERNATIONAL, INC.; AND  
MCDONALD'S CORPORATION.

### *Defendants.*

Civil Action No.

## Jury Trial Demanded

## **PLAINTIFF'S COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff LBS Innovations, LLC files this Complaint against BP America Inc.; ConocoPhillips dba ConocoPhillips Inc.; Choice Hotels International, Inc.; Costco Wholesale Corporation; Hyatt Corporation; KeyCorp; KeyCorp Finance Inc.; Marriott International, Inc.; and McDonald's Corporation (collectively the "Defendants") and alleges as follows.

## PARTIES

1. Plaintiff LBS Innovations LLC (“LBSI”) is a New Jersey Limited Liability Company with its principal place of business at 53 Ramapo Mountain Drive, Wanaque, New Jersey 07465.
2. Upon information and belief, Defendant BP America Inc. (“BP”) is a corporation organized and existing under the laws of the State of Texas, with its principal place of business

located at 501 Westlake Park Boulevard, Houston, Texas 77079. BP may be served with process through its registered agent CT Corporation System, 350 N. St. Paul St., Suite 2900, Dallas, Texas 75201.

3. Upon information and belief, Defendant ConocoPhillips dba ConocoPhillips Inc. (“ConocoPhillips”) is a corporation organized and existing under the laws of the State of Texas, with its principal place of business located at 600 N. Dairy Ashford St., Houston, Texas 77079. ConocoPhillips may be served with process through its registered agent CT Corporation System, 1021 Main Street, Suite 1150, Houston, Texas 77002.

4. Upon information and belief, Defendant Choice Hotels International, Inc. (“Choice Hotels”) is a corporation organized and existing under the laws of the State of Maryland, with its principal place of business located at 10750 Columbia Pike, Silver Spring, Maryland 20901. Choice Hotels may be served with process through its registered agent United States Corporation Company, 211 E. 7<sup>th</sup> Street, Suite 620, Austin, Texas 78701.

5. Upon information and belief, Defendant Costco Wholesale Corporation (“Costco”) is a corporation organized and existing under the laws of the State of Washington, with its principal place of business located at 999 Lake Dr., Suite 200, Issaquah, Washington 98027-8982. Costco may be served with process through its registered agent CT Corporation System, 350 N. St. Paul St., Suite 2900, Dallas, Texas 75201.

6. Upon information and belief, Defendant Hyatt Corporation (“Hyatt”) is a corporation organized and existing under the laws of the State of Illinois, with its principal place of business located at 71 S. Wacker Dr., Suite 1000, Chicago, Illinois 60606. Hyatt may be served with process through its registered agent United States Corporation Company, 211 E. 7<sup>th</sup> Street, Suite 620, Austin, Texas 78701.

7. Upon information and belief, Defendant KeyCorp is a corporation organized and existing under the laws of the State of Ohio, and Defendant KeyCorp Finance Inc. is a corporation organized and existing under the laws of the State of Ohio. These Defendants are collectively referred to herein as "KeyCorp." Each of the KeyCorp entities has its principal place of business located at 127 Public SQ, Cleveland, Ohio 44114-1306. Each entity may be served with process through its registered agent CT Corporation System, 350 N. St. Paul St., Suite 2900, Dallas, Texas 75201.

8. Upon information and belief, Defendant Marriot International, Inc. ("Marriott") is a corporation organized and existing under the laws of the State of Maryland, with its principal place of business located at 10400 Fernwood Rd, Bethesda, Maryland 20817. Marriott may be served with process through its registered agent The Prentice-Hall Corporation System, 211 E. 7<sup>th</sup> Street, Suite 620, Austin, Texas 78701.

9. Upon information and belief, Defendant McDonald's Corporation ("McDonald's") is a corporation organized and existing under the laws of the State of Illinois, with its principal place of business located at 2111 McDonald's Dr., Oak Brook, IL 60523. McDonald's may be served with process through its registered agent The Prentice-Hall Corporation System, 211 E. 7<sup>th</sup> Street, Suite 620, Austin, Texas 78701.

#### **JURISDICTION AND VENUE**

10. This is an action for patent infringement arising under the patent laws of the United States of America, Title 35, United States Code.

11. This Court has original jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

12. Upon information and belief, each of the Defendants is subject to this Court's general and/or specific personal jurisdiction because it (a) is a resident of the State of Texas; and/or (b) has designated an agent for service of process in the State of Texas; and/or (c) has committed acts of infringement in the State of Texas as alleged below; and/or (d) is engaged in continuous and systematic activities in the State of Texas. Therefore, this Court has personal jurisdiction over each of the Defendants under the Texas long-arm statute, TEX. CIV. PRAC. & REM. CODE §17.042.

13. Venue is proper in this district under 28 U.S.C. §§ 1391(c) and 1400(b). On information and belief, each Defendant has a regular and established place of business in this district, and/or has transacted business in this district and has committed and/or induced acts of patent infringement in this district.

#### **THE PATENT-IN-SUIT**

14. On July 18, 2000, the United States Patent and Trademark Office issued United States Patent No. 6,091,956 (the “‘956 patent”) entitled “Situation Information System,” a true copy of which is attached as Exhibit A.

15. LBSI is the owner by assignment of the ‘956 patent and owns all right, title and interest in the ‘956 patent, including the right to sue for and recover all past, present and future damages for infringement of the ‘956 patent.

#### **CLAIM 1 -- INFRINGEMENT OF U.S. PATENT NO. 6,091,956**

16. Defendant BP has been and now is directly infringing one or more claims of the ‘956 patent, including claim 11, in violation of 35 U.S.C. § 271, by making and/or using in the United States the computer implemented website <http://mybpstation.com/> which has a store, dealer, or station location interface at

<http://www.bp.com/toolserver/heliospowertool/fuelStationSearch.do?categoryId=5580&contentId=0>.

17. Defendant ConocoPhillips has been and now is directly infringing one or more claims of the '956 patent, including claim 11, in violation of 35 U.S.C. § 271, by making and/or using in the United States the computer implemented website <http://www.drivesavvy.com/>, which has a store, dealer, or station location interface at <http://www.drivesavvy.com/sitelocator/usstorelocator.aspx>.

18. Defendant Choice Hotels has been and now is directly infringing one or more claims of the '956 patent, including claim 11, in violation of 35 U.S.C. § 271, by making and/or using in the United States the computer implemented website <http://www.choicehotels.com/>, and which has a store, dealer, or hotel location interface at <http://www.choicehotels.com/>, and its other related sites such as <http://www.clarionhotel.com/>.

19. Defendant Costco has been and now is directly infringing one or more claims of the '956 patent, including claim 11, in violation of 35 U.S.C. § 271, by making and/or using in the United States the computer implemented website [www.costco.com](http://www.costco.com), and which has a store or dealer location interface at <http://www.costco.com/warehouse/locator.aspx>.

20. Defendant Hyatt has been and now is directly infringing one or more claims of the '956 patent, including claim 11, in violation of 35 U.S.C. § 271, by making and/or using in the United States the computer implemented website [www.hyatt.com](http://www.hyatt.com), and which has a store, dealer, or hotel location interface at <http://www.hyatt.com/hyatt/features/index.jsp?type=clear>, and for each state in which it is located, for example at <http://www.hyatt.com/hyatt/features/hotel-search-results.jsp?Ntt=Texas,%20USA&requestid=404810>.

21. Defendant KeyCorp has been and now is directly infringing one or more claims of the '956 patent, including claim 11, in violation of 35 U.S.C. § 271, by making and/or using in the United States the computer implemented website [www.key.com](http://www.key.com), and which has a store, dealer, banking center location interface at <https://www.key.com/gen/html/bank-branch-atm-location.html?entity=BRCH&entity=ATM>.

22. Defendant Marriott has been and now is directly infringing one or more claims of the '956 patent, including claim 11, in violation of 35 U.S.C. § 271, by making and/or using in the United States the computer implemented website [www.marriott.com](http://www.marriott.com), which has a store, dealer, or hotel location interface at <http://www.marriott.com/default.mi> and <http://www.marriott.com/search/default.mi>.

23. Defendant McDonald's has been and now is directly infringing one or more claims of the '956 patent, including claim 11, in violation of 35 U.S.C. § 271, by making and/or using in the United States the computer implemented website [www.mcdonalds.com](http://www.mcdonalds.com), which has a store or dealer location interface at [http://www.mcdonalds.com/us/en/restaurant\\_locator.html](http://www.mcdonalds.com/us/en/restaurant_locator.html).

24. As a direct and proximate consequence of the acts and practices of the Defendants in infringing, directly and/or indirectly, one or more claims of the '956 patent, LBSI has suffered, is suffering, and will continue to suffer injury and damages for which it is entitled to relief under 35 U.S.C. § 284 in an amount to be determined at trial.

25. The limitation of damages provision of 35 U.S.C. § 287(a) is not applicable to LBSI.

26. This case presents exceptional circumstances within the meaning of 35 U.S.C. § 285 and LBSI is thus entitled to an award of its reasonable attorneys' fees.

**DEMAND FOR JURY TRIAL**

27. LBSI, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of any issues so triable.

**PRAYER FOR RELIEF**

WHEREFORE, LBSI requests entry of judgment that:

1. Defendants have infringed the patent-in-suit;
2. Defendants account for and pay to Plaintiff all damages caused by their respective infringement of the patent-in-suit; and
3. Plaintiff be granted pre-judgment and post-judgment interest on the damages caused to it by reason of one or more of Defendants' patent infringement;
4. The Court declare this an exceptional case and that Plaintiff be granted reasonable attorneys' fees in accordance with 35 U.S.C. § 285;
5. Costs be awarded to Plaintiff; and
6. Plaintiff be granted such other and further relief as the Court may deem just and proper under the circumstances.

Dated: September 14, 2011

Respectfully submitted,

**BUETHER JOE & CARPENTER, LLC**

By: /s/ Christopher M. Joe  
Christopher M. Joe (*Lead Counsel*)  
State Bar No. 00787770  
Chris.Joe@BJCIPLaw.com  
Eric W. Buether  
State Bar No. 03316880  
Eric.Buether@BJCIPLaw.com  
Brian A. Carpenter  
State Bar No. 03840600  
Brian.Carpenter@BJCIPLaw.com  
Niky Bukovcan  
Washington State Bar No. 39403  
Niky.Bukovcan@BJCIPLaw.com  
Mark D. Perantie  
State Bar No. 24053647  
Mark.Perantie@BJCIPLaw.com

1700 Pacific Avenue  
Suite 2390  
Dallas, Texas 75201  
Telephone: (214) 466-1272  
Facsimile: (214) 635-1828

**ATTORNEYS FOR PLAINTIFF  
LBS INNOVATIONS LLC**